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In re Application of :
SCHULZ et al. :
Application No.: 10/574,219 :
PCT No.: PCT/EP05/51894 :
Int. Filing Date: 27 April 2005 :
Priority Date: 27 April 2004 :
Attorney Docket No.: P29299 :
For: AQUEOUS ANTI-PERSPIRATION
FORMULATION

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Cover Letter Regarding Change of Last Name of Fourth Inventor" filed 03 October 2006 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. Applicants are requesting to change the name of the fourth inventor from Yvonne Cierpisz to Yvonne Eckhard due to marriage. The \$400 petition fee will be charged to counsel's Deposit Account No. 19-0089.

BACKGROUND

On 31 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*: the basic national fee; a copy of the international application; and a preliminary amendment.

On 03 October 2006, applicants filed an executed declaration of inventors which was accompanied by an affidavit executed by Yvonne Eckhard (formerly Yvonne Cierpisz).

DISCUSSION

Section 605.04(b) of the the Manual of Patent Examining Procedure states that:

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

Applicants are requesting to change the name of the fourth inventor from Yvonne Eckhard to Yvonne Cierpisz. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the fourth inventor. For such a petition

to be grantable, MPEP § 605.04(c) states that “the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.”

Here, applicants’ submission included the authorization to charge Deposit Account No. 19-0089 for required fees. Based on this authorization, Deposit Account No. 19-0089 will be charged the requisite petition fee of \$400, satisfying the petition fee requirement. As for the affidavit requirement, applicants have submitted a “Declaration of Yvonne Eckhard Concerning Name Change” (affidavit) regarding the name change. This affidavit states that the inventor’s surname was changed, and that her name was legally changed to Yvonne Eckhard as a result of marriage.

However, the declaration executed by Yvonne Eckhard is not in compliance with 37 CFR 1.497(a)-(b). Specifically, the declaration includes an alteration (to correct the name of the inventor) that has not been initialed and dated by Yvonne Eckhard. Further, with respect to the handwritten alteration, it is unclear if the fourth inventor’s name is Yvonne Eckhard, as stated in the affidavit, or Yvonne Cierpisz Eckhard as listed on the declaration of inventors. Therefore, a newly executed declaration from Yvonne Eckhard is required.

Further, the declaration executed by Linda Engfeldt does not comply with 37 CFR 1.69 in that it has not been fully translated into English. The translation of the body of the declaration is acceptable since applicants have used the German-English declaration form provided by the USPTO, however, the citizenship of Linda Engfeldt is listed in German as “Schweden” but has not been translated on the English side. (See 37 CFR 1.69(b)) Additionally, the declaration includes an alteration (to correct the citizenship of the inventor) that has not been initialed and dated by Linda Engfeldt. (See MPEP §605.04(a) and 37 CFR 1.52(c)). Therefore, a newly executed declaration from Linda Engfeldt is required.

Therefore, item (2) has not been satisfied, and thus the petition may not be granted at this time.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled “Renewed Petition Under 37 CFR 1.182.” No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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